

The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

DANIEL O'CONNELL
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

DANIEL C. CRANE
DIRECTOR, OFFICE OF
CONSUMER AFFAIRS AND
BUSINESS REGULATION

STEVEN L. ANTONAKES
COMMISSIONER OF BANKS

March 14, 2008

RE: Public Safety and Maintenance of Distressed and Foreclosed Properties

To Whom It May Concern:

We are writing you regarding your responsibilities under Massachusetts law and regulation to maintain a property and ensure public safety in the event of a foreclosure. As you are aware, a dramatic increase in foreclosures has resulted in an increase in the number of vacant properties. Vacant and abandoned properties present increased fire threats and risks to firefighters. Vacant properties can also result in increases in crime, vandalism, graffiti, and other threats to public safety and personnel. Vacant properties also impact the appearance and viability of a neighborhood.

To address these risks, Massachusetts General Laws chapter 143, section 6 requires local building inspectors to immediately notify a building owner, including a mortgagee in possession, in the case of foreclosure, in writing that a building is unsafe and order the owner to safely secure the building. If unsafe, the inspector may also in consultation with the fire chief, use a visual marker, such as spray paint, on a building to indicate the type of hazard for emergency personnel.

When a building is declared unsafe, under 780 CMR 121, the owner must either begin to remove the structure or make it safe by 12:00 noon the day after receiving a notice from the inspector. If the owner fails to make the property safe, the city or town can take the necessary action to secure the building. The city or town can attach a lien on the property for all costs associated with making a property safe.

In the case of a vacant building, under 780 CMR 121.7(2), the owner, including a mortgagee, must secure the building by first obtaining the written approval of both the head of the fire department and the building department for the method of securing the building which must be one of the three following options:

1. Securing all window and door openings in accordance with the U.S. Fire Administration board up provisions;
 2. Providing 24-hour watchman services; or
- Providing a monitored intruder alarm system.



Such security must be maintained continuously until the building is reoccupied.

Whether determined to be unsafe or uninhabited, the building owner, which would be the mortgagee in the event of a foreclosure, must furnish a floor plan of the building to both the chief of police and the chief of the fire department.

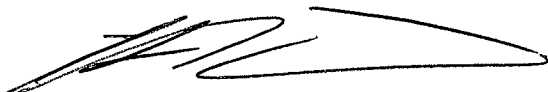
Both M.G.L. c. 27A and 527 CMR 1.06(2) provide that a property owner is responsible for the care and maintenance of all fire protection systems, including smoke alarms. The owner is required to immediately notify the fire department if a fire protection system is temporarily out of service and must restore such service as soon as possible.

Please note that in addition to attaching a lien, a city or town can assess daily fines and penalties for violations of law or regulation.


Foreclosures represent a significant cost not only to the former homeowner, but also to the neighborhood and the local economy. There is also a significant cost to the local cities and towns to address the blight of vacant buildings. The Division of Banks is working with the Department of Fire Services to ensure compliance with these important public safety protections and to minimize the risk to the public as well as fire and police personnel. The Division will encourage city and town officials to notify the Division if a mortgagee or mortgage servicer is in violation of the above requirements to secure vacant buildings, to ensure maintenance of fire protection systems, and to address any unsafe building conditions. Your cooperation and compliance can help to address these risks and hasten the return of these properties to safe and productive use as soon as possible.

If you have any questions, you can feel free to contact the Department of Fire Services at (978) 567-3100, or the Division of Banks at (617) 956-1500.

Very truly yours,



Steven L. Antonakes
Commissioner of Banks



Stephen D. Coan
State Fire Marshal

cc: Mass. Municipal Association